

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

STATE OF MISSISSIPPI; STATE OF
ALABAMA; STATE OF ARKANSAS;
COMMONWEALTH OF
KENTUCKY; STATE OF
LOUISIANA; STATE OF MISSOURI;
and STATE OF MONTANA,

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; THE UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare and Medicaid
Services; THE CENTERS FOR
MEDICARE AND MEDICAID
SERVICES; THE UNITED STATES
OF AMERICA,

Defendants.

Case No. 1:22-cv-113-HSO-RPM

**AMENDED OBJECTIONS AND RESPONSES TO DEFENDANTS'
FIRST SET OF REQUESTS FOR ADMISSION**

Below are Plaintiffs' objections and responses to Defendants' first set of RFAs. Plaintiffs' ability to respond to these requests is limited by the fact that they have not yet received responses to their subpoenas to third-party providers or their second batch of discovery to Defendants. Plaintiffs thus reserve the right to update this document once they receive that information.

1. **Admit that Mississippi does not have a state anti-discrimination law.**

Response: Deny.

2. **Admit that Alabama does not have a state anti-discrimination law.**

Response: Deny.

3. **Admit that the State of Mississippi has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.**

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Mississippi itself since 2020, admit. Otherwise cannot admit or deny.

4. **Admit that the State of Mississippi has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.**

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Mississippi itself, admit. Otherwise cannot admit or deny.

5. Admit that the State of Mississippi has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

6. Admit that the State of Alabama has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Alabama itself since 2020, admit. Otherwise cannot admit or deny.

7. Admit that the State of Alabama has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Alabama itself, admit. Otherwise cannot admit or deny.

8. Admit that the State of Alabama has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

9. Admit that the State of Louisiana has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Louisiana itself since 2020, admit. However, the Louisiana Board of Medical Examiners has opened several cases with allegations of physician race-based discrimination since May 1, 2012. At least one case is ongoing and active. All details of these cases are confidential and non-public. Otherwise cannot admit or deny.

10. Admit that the State of Louisiana has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, university, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Louisiana itself, admit.

11. Admit that the State of Louisiana has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

12. Admit that the State of Montana has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: Deny.

13. Admit that the State of Montana has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Montana itself, admit. Otherwise cannot admit or deny.

14. Admit that the State of Montana has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

15. Admit that the State of Arkansas has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Arkansas itself since 2020, admit. Otherwise cannot admit or deny.

16. Admit that the State of Arkansas has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Arkansas itself, admit. Otherwise cannot admit or deny.

17. Admit that the State of Arkansas has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

18. Admit that the Commonwealth of Kentucky has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the Commonwealth of Kentucky itself since 2020, admit. Otherwise cannot admit or deny.

19. Admit that the Commonwealth of Kentucky has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the Commonwealth of Kentucky itself, admit. Otherwise cannot admit or deny.

20. Admit that the Commonwealth of Kentucky has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

21. Admit that the State of Missouri has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Missouri itself since 2020, admit. Otherwise cannot admit or deny.

22. Admit that the State of Missouri has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term “enforcement action” as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent “enforcement action” means a lawsuit brought under a public-accommodation statute by the State of Missouri itself, admit. Otherwise cannot admit or deny.

23. Admit that the State of Missouri has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term “costs” as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties’ dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

Dated: May 29, 2024
Amended: June 17, 2024

Respectfully submitted,

s/ Justin L. Matheny

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CERTIFICATE OF SERVICE

Plaintiffs emailed everyone requiring service.

Dated: May 29, 2024
Amended: June 17, 2024

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